



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr.  
Secretary of Natural Resources

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David K. Paylor  
Director

Jeffery A. Steers  
Regional Director

## STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**Potomac Hospital**  
**DEQ Registration No. 70295**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and the Potomac Hospital, for the purpose of resolving certain alleged violations of the air permits and regulations as specified in SECTION C of this Order.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order and Appendix A.
6. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
7. "O&M" means operations and maintenance.
8. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
9. "SAPCB" means the State Air Pollution Control Board
10. "VAC" means Virginia Administrative Code.
11. "NSPS" means New Source Performance Standards.

#### **SECTION C: Findings of Fact**

1. The Potomac Hospital, located at 2300 Opitz Boulevard in Woodbridge, Virginia, is one of two community hospitals in Prince William County. Potomac Hospital operates under a New Source Performance Standard permit issued by DEQ on January 8, 1998, and amended on June 30, 2004.
2. On February 15, 2006, DEQ Northern Virginia Regional Office (NVRO) conducted an on-site inspection of Potomac Hospital (Facility Registration No. 70295) to determine the facility's compliance with the applicable SAPCB Regulations. This inspection revealed the following deficiencies:
  - a. The permitted boilers and generators located at Potomac Hospital do not have fuel gauges to allow fuel usage to be recorded for each unit and calculated on a rolling monthly basis (in accordance with permit condition #4 and SAPCB Regulation 9 VAC 5-80-1180 and with 40 CFR 60.48c(g) of the U.S. Environmental Protection Agency Regulations);
  - b. Since the hospital's permit was modified on June 30, 2004, DEQ records indicate that no semi-annual reports of the total amount of NO<sub>x</sub> emitted from the hospital generators have been received by the Air Compliance Manager, Northern Virginia Regional Office (in accordance with permit condition 16a and SAPCB Regulations 9 VAC 5-20-160 and 9 VAC 5-50-50).
  - c. Since the hospital's permit was modified on June 30, 2004, DEQ records indicate that no semi-annual reports of the total amount of NO<sub>x</sub> and SO<sub>2</sub> emitted from the hospital boilers have been received by the Air Compliance

Manager, Northern Virginia Regional Office (in accordance with permit condition 16a and SAPCB Regulations 9 VAC 5-20-160 and 9 VAC 5-50-50).

- d. Potomac Hospital did not maintain records of the number of gallons of fuel oil burned per year per emission unit, calculated monthly as the sum of the previous consecutive twelve months (in accordance with permit condition 16a and SAPCB Regulations 9 VAC 5-20-160 and 9 VAC 5-50-50).
  - e. Potomac Hospital did not maintain records of the total cubic feet of natural gas burned and the total gallons of no. 2 fuel oil burned annually by the boilers, calculated monthly as the sum of the previous consecutive twelve months (in accordance with permit condition 16a and SAPCB Regulations 9 VAC 5-20-160 and 9 VAC 5-50-50 and with 40 CFR 60.48c of the U.S. Environmental Protection Agency Regulations).
3. DEQ issued a Notice of Violation to Potomac Hospital on April 28, 2006, addressing the aforementioned alleged violations.
  4. Potomac Hospital responded in writing to the NOV on June 26, 2006.
  5. DEQ and Potomac Hospital discussed the NOV and the hospital's response in a meeting on June 30, 2006. This meeting concluded that installation of the fuel gauges on the boilers, in accordance with U.S. Environmental Protection Agency regulation 40 CFR 60.48c(g) and the Virginia Administrative Code 9 VAC 5-50, and on the generators, would resolve alleged violations for permit conditions 4, 16c and 16d. Report submissions, required by permit conditions 16a and 16 b, could be completed with exact fuel usage totals once the fuel gauges are installed, resolving those alleged violations.
  6. On August 22, 2006, Potomac Hospital provided DEQ with estimated fuel consumption quantities and estimated semi-annual nitrogen oxide (NO<sub>2</sub>) and sulfur oxide (SO<sub>2</sub>) emissions from July 2004 through July 2006 for the permitted boilers and generators.
  7. DEQ requested additional information regarding Potomac Hospital's August 22, 2006, submission.
  8. On September 5, 2006, Potomac Hospital informed DEQ that fuel meters were ordered by their contractor on July 14, 2006, were the wrong size and that new meters would arrive within four to six weeks.
  9. On September 19, 2006, DEQ met with Potomac Hospital representatives to discuss the August 22, 2006, submission.

10. On October 11, 2006, DEQ met with Potomac Hospital's new Director of Engineering and current Chief Engineer to discuss the permit and required recordkeeping.
11. Potomac Hospital submitted on December 15, 2006, spreadsheets of estimated fuel consumption quantities and estimated monthly rolling emission values for the permitted boilers and generators from July 2004 through November 2006. This submission also indicated that the fuel meters for boilers HB-4, HB-5 and HB-6 were installed. Discussions with the Facility's Director of Engineering on January 8, 2007, confirmed that the fuel meters for the permitted generators are not yet installed.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders the Potomac Hospital, and the Potomac Hospital agrees, to comply with the specific actions given in Appendix A of this Order. The Potomac Hospital also agrees to pay a civil charge in the amount of ten thousand five hundred seventy-eight dollars (\$10,578.00). The civil charge is due within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the Potomac Hospital, for good cause shown by the Potomac Hospital, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued April 28, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the Potomac Hospital admits the jurisdictional allegations contained herein. The Potomac Hospital consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

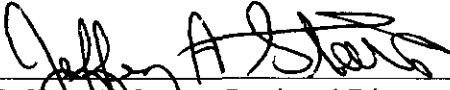
4. The Potomac Hospital declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by the Potomac Hospital to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. The Potomac Hospital shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Potomac Hospital shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Potomac Hospital shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and the Potomac Hospital. Notwithstanding the foregoing, the Potomac Hospital agrees to be bound by any compliance date that precedes the effective date of this Order.
10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Potomac Hospital. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the Potomac Hospital from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By its signature below, the Potomac Hospital voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of FEBRUARY 13, 2007.

  
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Jeffery A. Steers, Regional Director  
Department of Environmental Quality  
Northern Virginia Regional Office

The Potomac Hospital voluntarily agrees to the issuance of this Order.

By:   
\_\_\_\_\_

Date: 2/15/07

Commonwealth of Virginia

City/County of Prince William

The foregoing document was signed and acknowledged before me this 15<sup>th</sup> day of February, 2007, by William H. Flannagan Jr. who is  
(name)

EVP/CCO of the Potomac Hospital, on behalf of the Corporation.  
(title)

  
\_\_\_\_\_  
Notary Public

My commission expires: 12/31/2010

## **APPENDIX A**

The Potomac Hospital shall perform the following actions:

1. Install and continuously operate fuel gauges on all permitted boilers HB-4, HB-5, HB-6 and generators HG-3, HG-4 within 30 days of the execution of this Order.
2. Submit a semi-annual report by January 30, 2007, for the reporting period of July 1, 2006 to December 31, 2006, of the total amount of NO<sub>x</sub> emitted from the hospital generators as required by permit condition 16a.
3. Submit a semi-annual report by January 30, 2007, for the reporting period of July 1, 2006 to December 31, 2006, of the total amount of NO<sub>x</sub> and SO<sub>2</sub> emitted from the hospital boilers as required by permit condition 16b.